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**MAY 24 2005**

**OFFICE OF PETITIONS**

In re Application of :  
Pinchuk, et al. :  
Application No. 09/657,041 :  
Filing Date: 5 September, 2000 :  
Attorney Docket No. BSI-430US8 :

DECISION ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 7 January, 2005.

The petition is **GRANTED**.

**BACKGROUND**

The record indicates:

- the application was filed on 5 September, 2000, and, in the Office action of 2 July, 2003, the Examiner found that the re-issue application had been filed without, *inter alia*, a valid and fully executed oath or declaration because the oath/declaration filed failed “to identify at least one error which is relied upon to support the reissue application”; and
- a Supplemental Reissue Declaration filed with an amendment on (or about) 6 October, 2003 (over a 1 October, 2003, Certificate of Mailing), was unsigned and Petitioner’s reply filed on 11 December, 2003 (without a request and fee for extension of time), included and oath/declaration that was not a valid fully executed oath/declaration and no petition under 37 C.F.R §1.47) was filed at that time;
- therefore, the application appears to have gone abandoned after midnight 1 October, 2003;
- no Notice of Abandonment was mailed by the Office;

- the original petition under 37 C.F.R. §1.47 was filed via FAX on 9 February, 2004, after the instant application went abandoned, and was not accompanied by a petition (with fee) to revive the application as abandoned due to unintentional delay (under 37 C.F.R. §1.137(b)); that petition referenced, *inter alia*, an oath/declaration signed by named inventors save for Rysler Alcime (Mr. Alcime); and a declaration by Petitioner Jonathan H. Spadt (Reg. No. 45,122), and a copy of a letter from Petitioner to the non-signing inventor Mr. Alcime, however the copy of the letter to Mr. Alcime indicates that only the oath/declaration—and not the entire application (description, claims, drawings)—was sent to Mr. Alcime; thus, the original petition was dismissed on 9 December, 2004;
- the instant petition under 37 C.F.R. §1.47 was filed on 7 January, 2005, and was accompanied by:
  - documentation supporting the allegations, *inter alia*, that Mr. Alcime was presented with a copy of the entire application, and he that he has not returned a signed copy of the oath/declaration; as well as
  - a petition (with fee) under 37 C.F.R. §1.137(b), which latter petition has been granted.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

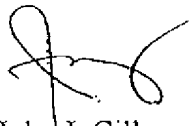
This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.  
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Office of Petitions